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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,661	04/09/2001	Shuzo Kato	226554US6	9187

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ALEXANDRIA, VA 22314

EXAMINER

NGUYEN, LEE

ART UNIT	PAPER NUMBER
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2682

DATE MAILED: 04/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/829,661

Applicant(s)

KATO ET AL.

Examiner

LEE NGUYEN

Art Unit

2682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

1. The IDS filed 6/8/2001 has been considered and recorded in the file.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 7-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Halonen (US 5,887,254).

Regarding claim 7, Halonen teaches a server 32 (fig. 2), inherently comprising a message database, the message database configured to store a plurality of messages, the server configured to automatically download one of the plurality of messages to a mobile communication device each day (col. 6, lines 19-27).

Regarding claim 8, Halonen also teaches that the server is configured to receive information about a user of the mobile communication device

and to use the information to select and/or construct the message downloaded to the mobile communication device each day (col. 6, lines 28-29, 31-42, user provides the server with model number, version, etc.).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1, 3-6, 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the prior art admitted by Applicant in the specification pages 1-2 (the admitted prior art hereinafter) in view of Lee (US 6,434,484).

Regarding claims 1 and 15, the admitted prior art teaches a mobile communication device, comprising a memory configured to store code and data, and a display, the mobile communication device configured to display a logo on the display whenever the mobile communication device is powered on and while the mobile communication device is refreshing the memory. The admitted prior art fails to teach that rather than a logo, a message can be displayed. Lee teaches that a message can be displayed when the mobile is powered on (fig. 3, col. 3, line 61 through col. 4, line 17). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the displaying message of Lee to mobile device of the admitted prior art in order to display meaningful information to the user.

Regarding claims 3 and 17, the admitted prior art as modified also teaches a user interface, wherein the mobile communication device is configured to accept user input through the user interface, and wherein the

user input is used to select and/or construct the message (col. 5, lines 1-14 of Lee).

Regarding claims 4-6, the admitted prior art as modified fails to teach that the message is either a horoscope, fortune or a comic strip. However, as stated in the rejection above of claim 1, the display of the admitted prior art includes a logo, while the message of Lee includes animated characters with different forms (col. 3, lines 14-39 of Lee). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the horoscope, fortune or a comic strip into the display of the admitted prior art in order to provide more animated features to the device.

7. Claims 2, 12-14, 16, and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in view of Lee as applied to claims 1, 7 and 15 above, and further in view of Halonen (US 5,887,254).

Regarding claims 2, 16, the admitted prior art as modified inherently teaches a transceiver to communicate with the server. The admitted prior art as modified fails to teach that the mobile communication device is further configured to periodically receive an automated download of a new

message through the transceiver. Halonen teaches that the mobile device is further configured to periodically receive an automated download of a new message through the transceiver (col. 6, lines 19-27). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the periodic message receiving of Halonen to the mobile device of the admitted prior art in order to update new message daily.

Regarding claim 12, the claim is interpreted and rejected for the same reason as set forth in claims 1 and 7.

Regarding claim 13, the claim is interpreted and rejected for the same reason as set forth in claim 3.

Regarding claim 14, the admitted prior art as modified also teaches that the server is configured to use the user input to select and/or construct the message downloaded to the mobile communication device each day (Halonen, col. 6, 23-27).

Regarding claim 18, the claim is interpreted and rejected for the same reason as set forth in claim 7.

Regarding claim 19, the claim is interpreted and rejected for the same reason as set forth in claim 8.


8. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Halonen.

Regarding claims 9-11, Halonen fails to teach the message is either a horoscope, fortune or a comic strip. However, for the same reason as forth in the rejection of claims 4-6, the display can also include a horoscope, fortune or a comic strip. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the horoscope, fortune or a comic strip into the display of Halonen in order to provide more animated features to the device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE NGUYEN whose telephone number is (703)-308-5249. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, VIVIAN CHIN can be reached on (703) 308-6739. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 4/21/04

LEE NGUYEN
Primary Examiner
Art Unit 2682